

REMARKS**I. General:**

Claims 1-20 were rejected under 35 U.S.C. § 102(f) because, according to the Examiner, the Applicant did not invent the claimed subject matter. Although the Examiner contends that a affidavit by either the Attorney of Record or Kent Kallasen is required to overcome this rejection, for the reasons that follow, Applicant respectfully disagrees with the Examiner

Claims 1-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,779,411 to Vasseur et al. (hereinafter referred to as "Vasseur"). For the reasons that follow, Applicant respectfully requests reconsideration and allowance of rejected claims 1-20.

II. Applicant requests withdrawal of the 35 U.S.C. § 102(f) rejection of claims 1-20.

Both the M.P.E.P. and the C.F.R. make explicit that where an error in inventorship has occurred at the time of filing, the filing of a subsequent first oath or declaration corrects such a deficiency. In particular, M.P.E.P. § 201.03 recites as follows:

"37 CFR 1.48(f) operates to automatically correct the inventorship upon filing of a first executed oath or declaration under 37 CFR 1.63 by any of the inventors in a nonprovisional application"

Furthermore, 37 CFR § 1.48(f)(1) recites as follows:

Nonprovisional application--filing executed oath/ declaration corrects inventorship. If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without any executed oath or declaration under § 1.63 by any of the inventors, the first submission of an executed oath or declaration under § 1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship.

The present application was filed without an oath or declaration. At the time of filing, the coversheet listed the name Kent Kallasen as an inventor. However, in accordance with M.P.E.P. § 201.03 and 37 CFR § 1.48(f)(1), the subsequent first filed declaration of John Fritsch automatically corrected this error. Accordingly, Applicant respectfully submits that the 35 U.S.C. § 102(f) rejection of claims 1-20 is obviated on this basis alone. Nevertheless, to ease any concerns that the Examiner may have, Applicant tenders herewith an affidavit signed by Dana Andrew Alden and an amendment to the coversheet of the application, which replaces the name of Kent Kallasen with John Fritsch.

III. Applicant requests withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-20 as being anticipated by Vasseur.

For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention. M.P.E.P. § 706.02. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)).

Claims 1 and 15 recite, "the acceptor is provided with ... a first securing surface, and a second securing surface". Claim 2 recites, "an acceptor ... including ... a first securing surface, and a second securing surface." According to the Examiner, Vasseur teaches first and second securing surfaces (16). However, even assuming *arguendo* that the "catch 16" could constitute a "first securing surface", Vasseur does not teach a "second securing surface" as recited in the claims. Accordingly, Vasseur does not teach or suggest each and every element as set forth in the claims. Therefore, the Examiner's rejection under 35 U.S.C. § 102 is improper and should be withdrawn. Since, claims 1-13 and 16-20, depend from claims 1, 2, or 15, they too are allowable for at least this same reason.

While the Examiner, on page 5 of the Non-Final Office Action, points to a structure in Vasseur that the Examiner contends is a second securing surface, the Examiner on this same page improperly contends that it is also a second coupling surface. For at least this reason, Vasseur does not teach a second securing surface. Furthermore, the structure pointed to as both the "second securing surface" and the "second coupling surface" is located on the first substrate section, whereas claims 1 and 15 recite that the acceptor, which includes the second securing surface, is located on the second substrate section. For at least this reason, Vasseur does not teach a second securing surface.

Claims 2, 16, and 18 recite, "the first coupling surface engages the first securing surface and the second coupling surface engages the second securing surface". According to the Examiner, Vasseur teaches coupling surfaces (28, 29) and first and second securing surfaces (16). However, again, even assuming *arguendo* that the "catch 16" could constitute a "securing surface," it does not engage the internal teeth (28, 29) of Vasseur. As Vasseur teaches, the purpose of the teeth 28 and 29 is to fix the screw 15 to the clip/nut assembly. Vasseur, Col. 3, ll. 17-20. Furthermore, as shown in FIG. 9 of Vasseur, the teeth 28 and 29 engage the screw 15, not the catch 16. Accordingly, Vasseur does not teach or suggest each and every element as set forth in the claims. For at least this reason, the rejections of claims 2, 16, and 18 should be

withdrawn. Since claims 9-13 and 20 depend from claim 2, they too are allowable for at least this reason.

Claims 2, 3, 5, and 6 recite "a fastener configured to tap threads into the acceptor." According to the Examiner, [t]he U-nut may comprise a fastener (15) configured to "tap threads into the acceptor" (col. 3 lines 35-38". However, Col. 3, lines 35-38 recites as follows:

"The clip 2 is connected to the nut body 1 by a fastener 3 extending, as may be seen in FIG. 2, in line with the reception face 7 of the head 5 and perpendicular to the slot 8."

Applicant submits that the foregoing recitation neither teaches nor suggests "a fastener configured to tap threads into the acceptor." In fact, Vasseur contradicts the Examiner on this point. The purpose of the screw 15 in Vasseur is not to thread into the bore 11, but, rather, to expand the bore 11. See, Vasseur, Col. 3, ll. 31-35 and Figures 8 and 9. Clearly, "a fastener configured to tap threads into the acceptor" would be unsuitable for expanding the bore 11. Use of such a fastener would defeat the purpose of including the slot 8 in the device of Vasseur and prevent the "locking ... [of] the fixing area 10 against the walls of the aperture 51. Vasseur, Col. 3, ll. 32-34 and Figures 8 and 9. Accordingly, Vasseur does not teach or suggest each and every element as set forth in the claims. For at least this reason, the rejection of claims 2, 3, 5, and 6 should be withdrawn. Since claims 9-13 and 20 depend from claim 2, they too are allowable for at least this same reason.

Claims 14, 19, and 20 recite, "an installation member ... provided with a first portion that is generally perpendicular to a plane of at least one of the first or second substrate segments and a second portion that is generally parallel to the plane of at least one of the first or second substrate segments." According to the Examiner, Vasseur teaches what could broadly be construed as an installation member (7, 10, 13) that is configured to rest upon an edge of a bracket (40, 50). Neither the "reception face 7," "the anchoring area 10," nor "the bevelled part 13" of Vasseur are provided with "a first portion that is generally perpendicular to a plane of at least one of the first or second substrate segments and a second portion that is generally parallel to the plane of at least one of the first or second substrate segments." Accordingly, for at least this reason, the rejections of claims 14, 19, and 20 should be withdrawn. Since claims 15-17 depend from claim 14, they too are allowable for at least this same reason.

Claims 7, 13, and 17 recite "the first angled surface is at an angle with respect to an axis of the first stem that measures 45°" and "the second angled surface is at an angle with respect to an axis of the second stem that measures 45°." According to the Examiner, Vasseur teaches

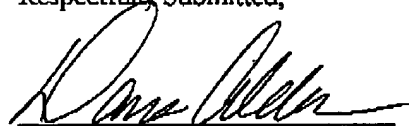
angled 45° surface (26, 27). Vasseur teaches that reference numeral "26" is an "external tooth" and that reference numeral "27" is also an "external tooth." However, contrary to the Examiner's assertion, Vasseur simply does not teach or suggest the angle of the external teeth "26, 27." Accordingly, Vasseur does not teach or suggest each and every element as set forth in the claims. For at least this reason, the rejections of claims 7, 13, and 17 should be withdrawn.

Conclusion

Applicants submit that the subject matter of the present application is novel, non-obvious, and useful, and therefore respectfully request prompt consideration and allowance of the present application.

Dated: June 14, 2006

Respectfully Submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE


Inventors : John Fritsch
Serial Number : 10/714,191
Filing Date : November 14, 2003
Title : U-NUT FASTENING ASSEMBLY
Examiner : Jeffrey Andrew Sharp
Art Unit : 3677

AFFIDAVIT

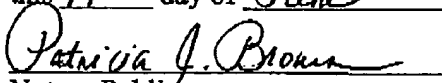
NOW COMES the Affiant, Dana Andrew Alden, having been duly sworn under oath, deposes and states as follows:

1. That I am over eighteen years of age, am competent to testify to the matters contained herein, and if called to testify, would testify as follows.
2. During the drafting of the above-referenced application, without deceptive intent, an error was made in listing Kent Kallsen as an inventor on the coversheet.
3. Kent Kallsen has no part in the inventorship of the present application.

FURTHER AFFIANT SAYETH NAUGHT.


Dana Andrew Alden

Subscribed and sworn to before me
this 14th day of June, 2006.


Notary Public

